

SECOND REGULAR SESSION

# HOUSE BILL NO. 2070

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOUGH (Sponsor), RICHARDSON, COX, MOLENDORP,  
FITZPATRICK, KOLKMEYER, GUERNSEY, CORNEJO AND SCHATZ (Co-sponsors).

6112H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 508.010, RSMo, and to enact in lieu thereof one new section relating to venue for injury outside the state of Missouri in connection with railroad operations.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 508.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 508.010, to read as follows:

508.010. 1. As used in this section, "principal place of residence" shall mean the county which is the main place where an individual resides in the state of Missouri. There shall be a rebuttable presumption that the county of voter registration at the time of injury is the principal place of residence. There shall be only one principal place of residence.

2. In all actions in which there is no count alleging a tort, venue shall be determined as follows:

(1) When the defendant is a resident of the state, either in the county within which the defendant resides, or in the county within which the plaintiff resides, and the defendant may be found;

(2) When there are several defendants, and they reside in different counties, the suit may be brought in any such county;

(3) When there are several defendants, some residents and others nonresidents of the state, suit may be brought in any county in this state in which any defendant resides;

(4) When all the defendants are nonresidents of the state, suit may be brought in any county in this state.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           3. The term "tort" shall include claims based upon improper health care, under the  
17 provisions of chapter 538.

18           4. Notwithstanding any other provision of law, in all actions in which there is any count  
19 alleging a tort and in which the plaintiff was first injured in the state of Missouri, venue shall be  
20 in the county where the plaintiff was first injured by the wrongful acts or negligent conduct  
21 alleged in the action.

22           5. Notwithstanding any other provision of law, in all actions in which there is any count  
23 alleging a tort and in which the plaintiff was first injured outside the state of Missouri, venue  
24 shall be determined as follows:

25           (1) If the defendant is a corporation, then venue shall be in any county where a defendant  
26 corporation's registered agent is located or, if the plaintiff's principal place of residence was in  
27 the state of Missouri on the date the plaintiff was first injured, then venue may be in the county  
28 of the plaintiff's principal place of residence on the date the plaintiff was first injured;

29           (2) If the defendant is an individual, then venue shall be in any county of the individual  
30 defendant's principal place of residence in the state of Missouri or, if the plaintiff's principal  
31 place of residence was in the state of Missouri on the date the plaintiff was first injured, then  
32 venue may be in the county containing the plaintiff's principal place of residence on the date the  
33 plaintiff was first injured;

34           **(3) Notwithstanding subdivisions (1) and (2) of this subsection, if the plaintiff was**  
35 **first injured in a foreign country in connection with any railroad operations therein and**  
36 **any defendant is a:**

37           **(a) Corporation that either directly or through its subsidiaries wholly owns or**  
38 **operates the foreign railroad; or**

39           **(b) Wholly owned subsidiary of a corporation that either directly or through its**  
40 **subsidiaries wholly owns or operates the foreign railroad;**

41  
42 **then venue shall exclusively be in the county where any such defendant corporation's**  
43 **registered agent is located, regardless of venue as to any other defendant or, if the**  
44 **plaintiff's principal place of residence was in the state of Missouri on the date the plaintiff**  
45 **was first injured, then venue may be in the county of the plaintiff's principal place of**  
46 **residence on the date the plaintiff was first injured.**

47           6. Any action, in which any county shall be a plaintiff, may be commenced and  
48 prosecuted to final judgment in the county in which the defendant or defendants reside, or in the  
49 county suing and where the defendants, or one of them, may be found.

50           7. In all actions, process shall be issued by the court in which the action is filed and  
51 process may be served in any county within the state.

52           8. In any action for defamation or for invasion of privacy, the plaintiff shall be  
53 considered first injured in the county in which the defamation or invasion was first published.

54           9. In all actions, venue shall be determined as of the date the plaintiff was first injured.

55           10. All motions to dismiss or to transfer based upon a claim of improper venue shall be  
56 deemed granted if not denied within ninety days of filing of the motion unless such time period  
57 is waived in writing by all parties.

58           11. In a wrongful death action, the plaintiff shall be considered first injured where the  
59 decedent was first injured by the wrongful acts or negligent conduct alleged in the action. In any  
60 spouse's claim for loss of consortium, the plaintiff claiming consortium shall be considered first  
61 injured where the other spouse was first injured by the wrongful acts or negligent conduct alleged  
62 in the action.

63           12. The provisions of this section shall apply irrespective of whether the defendant is a  
64 for-profit or a not-for-profit entity.

65           13. In any civil action, if all parties agree in writing to a change of venue, the court shall  
66 transfer venue to the county within the state unanimously chosen by the parties. If any parties  
67 are added to the cause of action after the date of said transfer who do not consent to said transfer  
68 then the cause of action shall be transferred to such county in which venue is appropriate under  
69 this section, based upon the amended pleadings.

70           14. A plaintiff is considered first injured where the trauma or exposure occurred rather  
71 than where symptoms are first manifested.

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